

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,	:	4:05-cr-402
	:	
	:	
v.	:	Hon. John E. Jones III
	:	
JOHN J. RIGAS and	:	
TIMOTHY RIGAS,	:	
Defendants.	:	

**ORDER**

**January 26, 2012**

Before the Court is the Motion of the United States for Leave to Dismiss the Superseding Indictment<sup>1</sup> Pursuant to Federal Rule of Criminal Procedure 48(b) (Doc. 194), filed on January 25, 2012.

As a result of their previous convictions in the Southern District of New

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<sup>1</sup> Count One of the Superseding Indictment charged John and Timothy Rigas with conspiracy to impair and impede the collection of income taxes, in violation of 18 U.S.C. § 371, for losses totaling approximately \$483 million for tax years 1998 through 2001, as a result of the alleged diversion of approximately \$1.8 billion from Adelphia Communications Corporation to corporations owned by the Rigases and their other, uncharged family members. Two through Nine charged substantive tax evasion offenses against John and Timothy Rigas, in violation of 26 U.S.C. § 7201, for the years 1998 through 2001, alleging tax total losses for those years of \$109.2 million for John Rigas and \$174.8 million for Timothy Rigas. It is well to note that Count I of the Superseding Indictment was dismissed by this Court's Order dated January 18, 2012, on the basis that the Government did not intend to present evidence that the conspiracy charged in this case was different from the conspiracy charged in the prosecution of the Rigases in the Southern District of New York. Thus, to prosecute the Rigases for conspiracy in this Court would violate the principles of double jeopardy.

York for conspiracy to commit securities fraud, making false statements in SEC filings, falsifying books and records of a public corporation and bank fraud, John Rigas, age 86, is serving a 12 year prison sentence and Timonth Rigas, age 55, is serving a 17 year prison sentence.<sup>2</sup> In its Motion, the Government contends that while sufficient evidence exists to obtain convictions of the Rigases for the tax evasion charges, the convictions will likely not result in substantial, additional prison time for the offenses and there will be significant limits on the imposition and collection of restitution. Thus, the Government desires to forego the criminal prosecution of the Rigases for tax evasion, noting that the tax evasion violations are better addressed through civil and administrative remedies available to the IRS.

It is obviously not for this Court to query why the Government initiated this prosecution. However, it has become increasingly clear to us during the over half decade it has pended on our docket that this endeavor is a highly questionable use of the increasingly scarce resources of the federal government. To wit: if an already 86 year old man who will be approximately age 92 if he lives to his projected release date based on his sentence in the Southern District of New York is convicted in this Court, what sort of punishment could we possibly mete out that

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<sup>2</sup> The projected release date for John Rigas is January 23, 2018 and June 22, 2022 for Timothy Rigas.

makes sense? As Kenny Rogers sang in his hit song *The Gambler*, “You got to know when to hold ‘em, know when to fold ‘em.” Today, the Government has appropriately decided to fold ‘em, and has blessedly elected to end this aspect of the unfortunate Rigas saga. It is a commendable decision, and one that we fully endorse and adopt.

**NOW, THEREFORE, IT IS HEREBY ORDERED THAT:**

1. The Government’s Motion to Dismiss the Superseding Indictment (Doc. 194) is **GRANTED**.
2. The Superseding Indictment is **DISMISSED** in its entirety.
3. The hearing scheduled for January 30, 2012 is **CANCELLED**.
4. The Clerk of Court is directed to **CLOSE** this case.

s/ John E. Jones III  
John E. Jones III  
United States District Judge